

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

WEDNESDAY, THE 31ST OCTOBER 2007 / 9TH KARTHIKA 1929

OP.No. 8793 of 2003(V)

PETITIONER:

**D.MAHESAN, (RETIRED DISTRICT REGISTRAR)
HOUSE NO.49/1174 (C), "KRISHNAKRIPA (VALAPPIL)",
ELAMAKKARA ROAD, EDAPPALLY P.O., COCHIN - 24.**

BY ADV. SRI.B.K.PURUSHOTHAMAN

RESPONDENTS:

- 1. STATE OF KERALA, REPRESENTED BY THE
SECRETARY TO GOVT., TAXES DEPARTMENT,
SECRETARIAT, THIRUVANANTHAPURAM.**
- 2. THE INSPECTOR GENERAL OF REGISTRATION,
KERALA, THIRUVANANTHAPURAM.**
- 3. THE DISTRICT REGISTRAR (GENERAL),
ERNAKULAM, COCHIN - 16.**
- 4. THE ACCOUNTANT GENERAL (A & E), KERALA,
THIRUVANANTHAPURAM.**
- 5. THE DIRECTOR OF INSURANCE,
THIRUVANANTHAPURAM.**
- 6. THE DISTRICT TREASURY OFFICER,
KAKKANAD, ERNAKULAM DIST.**

BY GOVERNMENT PLEADER SMT. T.B. RAMANI

**THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD
ON 07/09/2007, THE COURT ON 31/10/2007 DELIVERED THE
FOLLOWING:**

ORDER ON CMP NO. 15193/2003 IN OP NO. 8793/2003 V.

DISMISSED

31/10/2007.

SD/- THOTTATHIL B.RADHAKRISHNAN, JUDGE.

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1. COPY OF THE ORDER NO. B2/15864/99/DT. 12/1/00 BY THE R2.

EXT.P2. COPY OF THE GRATUITY PAYMENT ORDER DATED 16/6/00 BY R4.

EXT.P3. COPY OF THE LETTER NO. E2.15864/99 DT. 17/7/01 BY R2.

EXT.P4. COPY OF THE EXPLANATION BY PETITIONER BEFORE THE R2 DT. 10/08/01.

EXT.P5. COPY OF THE LIABILITY CERTIFICATE DT. 21/3/2001 BY R3.

EXT.P6. COPY OF THE LETTER NO. E2. 15864/99 DT. 22/08/2001 BY R2.

EXT.P7. COPY OF THE JUDGMENT IN OP NO. 14690/92 DT. 29/09/98 OF THIS COURT.

EXT.P8. COPY OF THE GOVT. LETTER NO. 3745/23/95/TD DT. 18/08/95 BY R1.

RESPONDENT'S EXHIBITS NIL.

True copy

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THOTTATHIL B. RADHAKRISHNAN, J.

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O.P.No.8793 of 2003-V

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Dated this the -----th day of October, 2007.

JUDGMENT

1.The petitioner retired from Government service on 31-5-1999. He has filed this writ petition seeking to quash Exts.P3 and P5, whereby certain amounts have been withheld by entering a certificate that he is liable to pay those amounts to the Government. He also seeks a direction that he is entitled to release of the entire retiral benefits with interest at the rate of 18% per annum with effect from 1-8-1999 and seeks a direction to the respondents to do so. He further seeks a direction to release different amounts claimed towards Group Insurance Scheme, Family Benefit Scheme, amounts of T.A.Bills for 12 months

immediately preceding his retirement etc.

2.Going by the counter affidavit filed on behalf of the first respondent, it can be seen that though the petitioner retired on 31-5-1999, he had responded to the notice issued to him only after his retirement for quantifying his liability. However, it is the assertion of the first respondent that it was impossible to finalise the NLC within a period of three years. The respondents do not have a case that the liabilities of the petitioner stated in Exts.P3 and P5 were finalized after notice to him. In fact, the assertion in the counter affidavit is that no notice was required to arrive at the amounts tentatively.

3.For the aforesaid reasons, the liability stated in Exts.P3 and P5 cannot be fastened on the petitioner

and hence, the withholding of any portion of the DCRG of the petitioner was legally impermissible.

4. In so far as the claim for Family Benefit Scheme, arrears of T.A. etc., the stand of the respondents is that the petitioner had not submitted the pass book relating to Group Insurance Scheme or application for settlement of Family Benefit Scheme to the 3rd respondent and no T.A. Bill submitted by him for the period from July 1998 to May 1999 was pending sanction.

5. Having regard to the aforesaid facts and circumstances, the relief that the petitioner is entitled to in this writ petition is only to the extent ordering release of the withheld DCRG for allowable interest.

6. In so far as the interest is concerned, the rate of interest that could have been directed has necessarily to be the rates with the available current market rate of interest depleting.

7. In the result, this writ petition is allowed quashing Exts.P3 and P5 in the following terms:

a) Exts.P3 and P5 are quashed.

b) It is declared that the petitioner is entitled to be paid the amounts which are withheld from the DCRG due to him on retirement. It is directed that all such amounts shall be released within a period of two months from the date of receipt of a copy of this judgment.

c)All amounts as aforesaid will carry interest at the rate of 12% per annum for three years from 1-8-2001 to 1-8-2003 and thereafter, at the rate of 6% per annum till date of payment of the amount directed above.

The relief iv in the writ petition is refused. No costs.

**THOTTATHIL B. RADHAKRISHNAN,
JUDGE.**

Sha/-

OP8793/2003

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THOTTATHIL B. RADHAKRISHNAN, J.

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O.P.No.8793 of 2003-V

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JUDGMENT

Dated: ----- October, 2007.